

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Periodic Reporting (NPPC et al. Proposal One)

Docket No. RM2023-3

COMMENTS OF THE ASSOCIATION FOR POSTAL COMMERCE

(February 8, 2023)

Pursuant to Order No. 6430, the Association for Postal Commerce (“PostCom”) submits these comments in support of the petition (“Petition”) to change analytical principles submitted by the National Postal Policy Council, the Alliance of Nonprofit Mailers, the American Catalog Mailers Association, PostCom, the Major Mailers Association, the National Association of Presort Mailers, and N/MA – The News/Media Alliance.¹ The Petition justifies the proposed change in analytical principles, and the comments submitted today by NPPC and other mailers, in which PostCom joins, further explain how the proposal will “improve the quality, accuracy, or completeness of Postal Service data.” 39 U.S.C. §3654(e). PostCom submits these further comments to address specific issues raised regarding the Petition in Order No. 6430.

I. THE APPLICABLE EXISTING PRINCIPLE IS UNDEFINED

In denying the mailers’ request for reconsideration, the Commission states that the applicable analytical principle is not simply that retiree health benefit normal costs should be attributed by applying estimated labor volume variabilities to the costs in the same proportions as direct labor costs.² Rather, it cites another “longstanding analytical principle” that “limits the

¹ Docket Nos. RM2023-1 and RM2023-3, Motion for Reconsideration or, in the Alternative, Petition to Initiate a Proceeding Regarding the Appropriate Analytical Principle for Retiree Health Benefit Normal Costs (Dec. 19, 2022) (NPPC et al. Proposal One).

² See Order No. 6430 at 17.

extent to which economic costs can be attributed to the total amount of booked or accounting costs.”³ The Commission claims this principle holds that “total accounting costs serve as a ceiling that attributed economic costs cannot exceed.”⁴

The Commission did not cite this analytical principle in Order No. 6363, in which it first held that existing analytical principles support excluding normal costs from the CRA in FY 2022 and directed parties seeking a change in existing principles to request one.⁵ Therefore, the Petition did not specifically request a change to this principle, nor have any parties had an opportunity to discuss it in pleadings filed in this and related dockets. The Commission’s reliance on a new justification for excluding RHB normal costs from the CRA creates difficulties for the mailers, as they had no opportunity to tailor their petition to this ruling, nor work through all the implications of a potential change in this principle.

Mailers are also put in a difficult position because the Commission does not cite any docket in which this principle was established or applied in Order No. 6430. The Commission cites to the Postal Service’s comments in Docket No. RM2007-1 stating that accounting costs should be set as a ceiling that attributed costs may not exceed,⁶ but it does not cite any Commission order in that docket endorsing that principle. That docket was focused on establishing the system of ratemaking required by PAEA. Order No. 43, establishing that system, does not address any analytical principles at all. Nor does it reference economic costs or ceilings on the same. The cited Postal Service comments were responding to a Commission question regarding whether Retiree Health Benefit costs should be classified as attributable

³ Order No. 6430 at 18-19.

⁴ *Id.* at 19.

⁵ *See* Order No. 6363 at 10.

⁶ Order No. 6430 at 20 (citing Docket No. RM2007-1, Initial Comments of the United States Postal Service on the Second Advance Notice of Proposed Rulemaking at 30 (June 18, 2007) (“USPS RM2007-1 Comments”)).

costs.⁷ The Postal Service affirmed that they should be, and that they are incurred when Postal Service employees work, not when the benefits are paid.⁸ While the Postal Service noted the limitation that economic costs should not exceed accounting costs, it did not offer any further explanation regarding how or when treating benefits as incurred when earned could conflict with accounting standards or possibly bring this limitation into play. Nor did the Commission comment on this limitation or its implications in its final rule. There is thus no indication in that docket that the Commission intended to incorporate that limitation into the analytical principles used in regulatory reporting.

In its response to the Petition, the Postal Service cites the Postal Rate Commission's discussion of differences between accounting and economic costs in its Opinion and Recommended Decision in Docket No. R90-1.⁹ That opinion, however, was focused specifically on the treatment of plant and equipment costs, and it did not establish a principle that economic costs can never exceed accounting costs.¹⁰ Rather, the Commission, relying primarily on former section 3621, determined that Congress intended for the Commission to use book costs rather than economic costs in its regulatory function.¹¹ The primary focus of the discussion was whether the then-existing break-even requirement should include "opportunity costs" in addition to (or instead of) booked accounting costs.¹² That discussion is entirely distinct from the current Petition, which is focused on whether normal costs that have been definitively identified in the Postal Service's 10-k should be attributed to products in the CRA.

⁷ See USPS RM2007-1 Comments at 28.

⁸ *Id.* at 30.

⁹ See Docket No. RM2023-3, Response of the United States Postal Service to Mailers' Motion for Reconsideration and Petition at 9, 21-22 (Jan. 4, 2023) ("USPS Response").

¹⁰ See Docket No. R90-1, Commission Op. & Rec. Dec., Vol. 1 at III-102 – III-134 (Jan. 4, 1991).

¹¹ *Id.* at III-122.

¹² See, e.g., *id.* at III-116.

Nevertheless, even if the Commission has accepted the analytical principle that economic costs should not exceed accounting costs, PostCom believes the Commission can adopt the limited relief requested by the Petition without upsetting other regulatory reporting. Additionally, doing so would result in consistent treatment of RHB normal costs over time. The Commission need not abandon its traditional (and generally appropriate) reliance on accounting costs as the basis for regulatory reporting, nor would granting the Petition “open the door for the complete untethering of regulatory costs from booked accounting costs” as the Postal Service suggests.¹³ The Petition is focused on a specific, non-speculative cost that is identified in the Postal Service’s 10-k. And because that cost will be incurred every year Postal Service employees earn retiree health benefits, the Commission should establish a method to ensure that cost is reflected in the CRA going forward.

II. IT IS UNCLEAR WHY ACCOUNTING AND ECONOMIC COSTS DIVERGE IN THIS INSTANCE

As noted above, PostCom endorses the concept that the Postal Service’s reported regulatory costs should typically match the costs reported in the Postal Service’s financial statements. But it is also important that the Postal Service’s regulatory reporting reflect the costs the Postal Service has actually incurred, particularly with respect to the costs that workshare activity avoids.

In the present case, if the Postal Service had treated the RHB normal costs it incurred in FY 2022 as expenses in its financial statements, there would be no question that those costs should be attributed in the CRA. The need for the Petition arose only because the Postal Service did not record its costs in this way.

¹³ USPS Response at 21. Notably, the Postal Service appears to have no concerns about decoupling regulatory costs from accounting costs with respect to the \$57 billion in liabilities eliminated by PSRA.

It should not be a controversial statement that retiree health benefit costs are incurred when an employee works. The Commission seems to understand this concept, noting that its endorsement of not attributing these costs in FY 2022 “is not to say that the economic costs of retiree health benefits do not exist in FY 2022.”¹⁴ The Commission has not reached the question, however, of whether these economic costs should also be reflected as accounting costs.

In explaining the difference between economic costs and accounting costs, the Commission states that “economic costs refer to the retiree health benefit normal costs (even in years when there was not an accounting cost for the normal costs).”¹⁵ It further explains that “[e]conomic costs include costs for benefits as benefits are earned regardless of whether an actual payment is due for the costs (*and thus regardless of whether the economic costs are also accounting costs*).”¹⁶ While the statements defining economic costs and stating when they are incurred are not controversial, the italicized parenthetical raises significant questions.

It is true that economic costs can be incurred regardless of whether they are also accounting costs. But as the Petition explained, the Postal Service employs accrual accounting.¹⁷ According to the Postal Service’s Handbook F-1, “The accrual basis of accounting dictates that the Postal Service record revenues when earned and expenses when incurred, *regardless of when the related assets and liabilities are collected or paid*.”¹⁸ This principle indicates that the FY2022 RHB Normal Costs—which the Commission does not dispute were incurred in FY2022—should have been recorded as expenses in FY2022 even though no payment was due for those costs in FY2022. The Commission in fact explains later in its order that “accrual

¹⁴ Order No. 6430 at 23.

¹⁵ Order No. 6430 at 18.

¹⁶ Order No. 6430 at 18 (emphasis added).

¹⁷ Petition at 3 (*citing* Postal Service Handbook F-1).

¹⁸ Handbook F-1 at 3 (emphasis added); *see also* Petition at 3.

accounting recognizes costs and revenues when incurred, even if payment occurs at a different time.”¹⁹ But the Postal Service’s accounting in this instance does not recognize its RHB normal costs when they were incurred.

PostCom recognizes that the Postal Service’s financial statements have been audited and found to be in accordance with GAAP.²⁰ Still, the Commission must understand why RHB Normal Costs that were incurred in FY2022 were not included as expenses on the Postal Service’s balance sheet. If they had been, there would be no question of how to report those expenses in the FY2022 ACR. The Postal Service’s economic costs would not have exceeded its accounting costs; the Cost and Revenue Analysis would have reflected the RHB Normal costs that were incurred in FY2022; and a portion of those costs would have been attributed using accepted analytical principles.

But because these costs were not accounted for, there is a disconnect between the costs the Postal Service incurred in FY2022 and the costs it is reporting in its financial statements. At a minimum, the Commission must investigate and explain why the Postal Service has not identified the normal costs as expenses. It is only the failure to treat these costs as expenses that created the need for this Petition.

The Commission states that “the reason the FY2022 Form10-k shows retiree health benefit normal costs is solely because it is required by 39 U.S.C. § 3654(b)(1)(C). The normal costs presented are not included in expenses, nor do they impact the Postal Service’s balance sheet.”²¹ That statement does not explain *why* the normal costs were not included in expenses when using accrual accounting nor *why* they do not impact the Postal Service’s balance sheet.

¹⁹ Order no. 6430 at 20.

²⁰ See Docket No. RM2023-3, Response of the United States Postal Service to Mailers’ Motion for Reconsideration and Petition at 14 (Jan. 4, 2023).

²¹ Order No. 6430 at 17 n.14.

The statute requires the Postal Service to identify the normal costs it incurred, and the Postal Service did so. Then, for an unknown reason, it chose to ignore them in its accounting.

The Commission's current approach suggests that even though the Postal Service will continue to incur RHB normal costs going forward so long as its employees earn benefits, these costs will never be reflected as expenses or attributed in regulatory reporting. It is absurd to simply ignore a cost that is undoubtedly incurred. The Commission should not endorse this outcome absent a full and satisfactory explanation of why these costs have not been treated as expenses.

Accordingly, the Commission should grant the Petition, direct the Postal Service to attribute the RHB normal costs it incurred in FY 2022 (according to the existing analytical principles that have been used since 2007), and revise its regulatory reporting accordingly.

Respectfully submitted,

/s/ Matthew D. Field

Matthew D. Field

VENABLE LLP

600 Massachusetts Ave., NW

Washington, DC 20001

(202) 344-8281

mfield@venable.com

Counsel for Association for Postal Commerce